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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Thakar, et al. Examiner: Edgardo Ortiz
Serial No.: 09/939,259 Docket: TI-32822
Filed: 08/24/01
For: POLYSILICON PROCESSING USING AN ANTI-REFLECTIVE DUAL
LAYER HARMDASK FOR 193 NM LITHOGRAPHY

DECLARATION OF GAUTAM V. THAKAR

Sir:

Gautam V. Thakar, of Plano, Texas, hereby declares that he is named as the primary inventor in U.S. Patent Application Serial No. 09/939,259, filed August 24, 2001; and that he is fully aware of the conflicting claim of Reima Tapani Laaksonen that he should be named as the primary inventor;

THAT he has direct personal knowledge of Mr. Laaksonen's refusal to sign the said Application because of said conflicting claim;

THAT he observed Mr. Laaksonen's oral refusal to sign at a meeting of all the inventors with the attorney for Texas Instruments (Gary C. Honeycutt), held on or about December 11, 2001, wherein the complete history of the invention was discussed for the purpose of attempting to resolve the conflict;

THAT Mr. Honeycutt presented the Application papers and requested of Mr. Laaksonen, more than once, that he sign the Application papers, whereupon Laaksonen repeatedly refused to sign; and

THAT he declares all statements made herein of his own knowledge are true and all statements made on information and belief are believed to be true, and further that these

statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Gautam Thakar
Gautam V. Thakar

July 24, 2002
Date



Paper No. 6

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474
M/S 3999
DALLAS TX 75265

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JUN 05 2002 ✓

In Application of
Thakar, et al.
Application No. 09/939,259✓
Filed: August 24, 2001✓
Attorney Docket No. TI-32822
Title: POLYSILICON PROCESSING
USING AN ANTI-REFLECTIVE DUAL LAYER:
HARDMASK FOR 193 NM LITHOGRAPHY

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

REASON PETITION 8/5/02

OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47, filed February 7, 2002, which is being treated as a petition under 37 CFR 1.47(a).¹

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified reissue application was filed on August 24, 2001. On October 10, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration (and a surcharge for its late filing). This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a one month extension of time and included a Certificate of Mailing dated January 10, 2002. Accompanying the petition were, *inter alia*: (1) a declaration executed by inventors Gautam Thakar, Cameron Gross, and Eric Joseph, with the signature block for inventor Reima T. Laaksonen left blank; and (2) a statement of facts from attorney Gary Honeycutt, explaining that Laaksonen refused to sign the declaration because his name was not listed first.

¹ A petition under 37 CFR 1.47(b) only applies when all of the inventors refuse to execute an application for patent. See MPEP 409.03(b).

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A grantable petition under 37 CFR 1.47(a) requires: (1) **proof** that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Rule 47 applicant has not met requirements (1) and (4) above.

As to requirement (1), the petition has been carefully considered. However, applicant has not submitted sufficient proof that Laaksonen has refused to sign the declaration. Regarding the evidence required of a Rule 47 applicant where a refusal is alleged, the Manual of Patent Examining Procedure states:

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts.²

Here, the petitioner has not submitted any evidence or details regarding Laaksonen's refusal to sign the declaration. For that matter, the petition does not even make it clear whether Laaksonen's refusal was oral or written.

As to requirement (4), applicant has not provided a statement of the last known address of the non-signing inventor.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Deposit Account No. 20-0668 has been charged the petition fee of \$130, the \$130 surcharge for late filing of the declaration, and the \$110 fee for the one month extension of time, as authorized.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

² MPEP 409.03(d).

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Godwin Gruber, P.C.
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